

Creek plan needs work

April 21, 2019

The new offer by the Superfund negotiators to establish a fund to partially defray the cost of a restored Upper Silver Bow Creek is a step in the right direction in the cleanup process. But it is lacking, in substance and specifics, and must be significantly modified if the negotiators hope to obtain community approval for the coming Butte Hill consent decree.

In a letter to the community group Restore Our Creek Coalition, signed by representatives of Atlantic Richfield, Butte-Silver Bow, the state of Montana and the EPA, the negotiators outlined a plan to set aside money to be paid by Atlantic Richfield to partially fund a man-made creek, calling the plan a “good-faith demonstration of our intent” to meet community desires on the creek.

But it is significantly flawed:

— First, the offer leaves it up to Restore Our Creek or other community groups to raise the rest of the money for the project. Since the letter did not specify how much money would be set aside, or how much money experts believe would be needed in total, there is no certainty — or even an estimate — of how much money the negotiators would expect citizens to cough up for something that should be provided and funded in full as part of this agreement. That is unacceptable on its face. Why should the community pay for what is an integral part of a restored post-damage environment?

— Second, the negotiators have balked at spending any currently available dollars to do the needed engineering and a feasibility study now to determine exactly how such a creek would fit into the current restoration plans. That is not even penny-wise and pound foolish. It’s just plain ridiculous. Why put money into a fund for a project before even determining whether the project is viable? The amount needed to do the requisite study would by all accounts be less than \$100,000 and probably closer to \$50,000. If this engineering, design and feasibility review is not done now the CD parties are asking the community to buy a pig in a poke when it comes to a restored creek.

Once again, we are asking for the negotiators to walk the walk. If the creek is not incompatible with current plans, prove it. The only way is to do this engineering and feasibility work.

For months now, the negotiators have been carefully and consistently avoiding this point, resorting to non-answers like “We believe nothing in the agreement in principle precludes the vision of a creek.” If the engineering for this creek had been funded at the outset of the process of designing the overall restoration plan outlined in the agreement in principle, it would be done by now. This must be done without delay.

— Third, the timetable for all of this is completely elastic. The unsubstantiated and, in our view, incorrect claim that water for a creek would not be available until MR is done mining is no excuse for not doing the minimal work to make the plan for a creek in the corridor definite and actionable.

— Fourth, the offer is as fragmented as the rest of the cleanup. Because the state moved unilaterally to remove the Parrot tailings after Atlantic Richfield and EPA said it wasn’t necessary — a decision that has been completely validated by the results of the Phase One excavation, which found far more waste and more serious pollution than expected — EPA and Arco aren’t working with the state and Butte-Silver Bow to provide a single vision of the corridor from Texas Avenue to the confluence with Blacktail Creek. This community-driven creek initiative is a perfect opportunity to unify all of the negotiators behind a comprehensive and inclusive community vision.

While we appreciate the real progress that has been shown over the past year and a half, we hope that immediate steps are taken by the consent-decree parties to strengthen this offer.